

to the laws of the state or country of residence. The Service will consider a U.S. citizen parent who has been awarded “joint custody,” to have legal custody of a child. There may be other factual circumstances under which the Service will find the U.S. citizen parent to have legal custody for purposes of the CCA.

**§ 322.2 Who is eligible for citizenship?**

(a) *General.* A child will be eligible for citizenship under section 322 of the Act, if the following conditions have been fulfilled:

(1) The child has at least one United States citizen parent (by birth or naturalization);

(2) The United States citizen parent has been physically present in the United States or its outlying possessions for at least 5 years, at least 2 of which were after the age of 14, or the United States citizen parent has a United States citizen parent who has been physically present in the United States or its outlying possessions for at least 5 years, at least 2 of which were after the age of 14;

(3) The child currently is under 18 years of age;

(4) The child currently is residing outside the United States in the legal and physical custody of the United States citizen parent; and

(5) The child is temporarily present in the United States pursuant to a lawful admission and is maintaining such lawful status in the United States.

(b) *Additional requirements if child is adopted.* If an adopted child, all of the requirements in paragraph (a) of this section must be fulfilled and the child must satisfy the requirements applicable to adopted children under section 101(b)(1) of the Act.

**§ 322.3 How, where, and what forms and other documents should the United States citizen parent(s) file?**

(a) *Application.* An application for a certificate of citizenship under this section on behalf of a biological child shall be submitted on Form N-600, Application for Certificate of Citizenship, by the U.S. citizen parent(s). An application for a certificate of citizenship under this section on behalf of an adopted child shall be submitted on

Form N-643, Application for Certificate of Citizenship in Behalf of An Adopted Child by U.S. citizen adoptive parent(s). The application must be filed with the filing fee required in § 103.7(b)(1) of this chapter. The U.S. citizen parent should include a request with the N-600 or N-643, noting preferred interview dates, and should allow sufficient time (at least ninety days) to enable the Service office to preliminarily adjudicate the application, schedule the interview, and send the appointment notice to the foreign address.

(b) *Evidence.* (1) An applicant under this section shall establish eligibility under § 322.2. In addition to the forms and the appropriate fee as required in § 103.7(b)(1) of this chapter, an applicant must submit the following required documents unless such documents are already contained in the Service administrative file(s):

(i) The child’s birth certificate or record;

(ii) Marriage certificate of child’s parents (if applicable);

(iii) If the child’s parents were married before their marriage to each other, proof of termination of any previous marriage of each parent (e.g., death certificate or divorce decree);

(iv) Evidence of U.S. citizenship of parent (i.e., birth certificate; naturalization certificate; FS-240, Report of Birth Abroad; a valid unexpired U.S. passport; or certificate of citizenship);

(v) If the child was born out of wedlock, documents verifying legitimation according to the laws of the child’s residence or domicile or father’s residence or domicile (if applicable);

(vi) In case of divorce, legal separation, or adoption, documentation of legal custody (if applicable);

(vii) Documentation establishing that the U.S. citizen parent or U.S. citizen grandparent meets the required physical presence requirements (e.g., school records, military records, utility bills, medical records, deeds, mortgages, contracts, insurance policies, receipts, or attestations by churches, unions, or other organizations);

(viii) Evidence that the child is present in the United States pursuant to a lawful admission and is maintaining such lawful status (e.g., Form I-94,